United Nations CEDAW/C/2003/I/3/Add.4

Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
19 December 2002

Original: English

**Committee on the Elimination of Discrimination against Women**
**Twenty-eighth session**
13-31 January 2003
Item 7 of the provisional agenda*
**Implementation of article 22 of the Convention on the Elimination of All Forms of Discrimination against Women**

# Reports provided by specialized agencies of the United Nations on the implementation of the Convention in areas falling within the scope of their activities

## Note by the Secretary-General

**Addendum**

## International Labour Organization

1. On behalf of the Committee, the Secretariat invited the International Labour Organization (ILO), on 18 September 2002, to submit to the Committee a report on information provided by States to ILO on the implementation of article 11 and related articles of the Convention on the Elimination of All Forms of Discrimination against Women, which would supplement the information contained in the reports of States parties to the Convention that will be considered at the twenty-eighth session.

2. Other information sought by the Committee refers to activities, programmes and policy decisions undertaken by ILO to promote the implementation of article 11 and related articles of the Convention.

3. The report annexed hereto has been submitted in compliance with the Committee's request.

* CEDAW/C/2003/I/1.

02-76018 (E) 220103

# Contents


Page

Part I
Introduction ..... 3

Part II
Indications concerning the situation of individual countries ..... 5

Canada ..... 5

Congo ..... 8

El Salvador ..... 8

Kenya ..... 10

Luxembourg ..... 11

Norway ..... 12

Part III
Additional information ..... 16

# Part I: Introduction

The provisions of article 11 of the Convention on the Elimination of All Forms of Discrimination Against Women are dealt within a number of ILO Conventions. Of the 184 Conventions adopted so far, the information in this report relates principally to the following:

- Equal Remuneration Convention, 1951 (No. 100), which has been ratified by 146 member states;
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which has been ratified by 142 member States;
- Workers with Family Responsibilities Convention, 1981 (No. 156), which has been ratified by 29 member States.

Where applicable, reference is made to a number of other Conventions, which are relevant to the employment of women:

*Forced Labour*

- Forced Labour Convention, 1930 (No. 29)
- Abolition of Forced Labour Convention, 1957 (No. 105)

*Child Labour*

- Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labour Convention, 1999 (No. 182)

*Freedom of Association*

- Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
- Right to Organize and Collective Bargaining Convention, 1949 (No. 98)

*Employment Policy*

- Employment Policy Convention, 1964 (No. 122)
- Human Resources Development Convention, 1975 (No. 142)

*Maternity Protection*

- Maternity Protection Convention, 1919 (No. 3)
- Maternity Protection Convention (Revised), 1952 (No. 103)
- Maternity Protection Convention, 2000 (No. 183)

*Night Work Night Work*

- Night Work (Women) Convention (Revised), 1948 (No. 89) [and Protocol]
- Night Work Convention, 1990 (No. 170)

*Underground Work*

- Underground Work Convention, 1935 (no. 45)

*Part-time Work*

- Part-Time Work Convention, 1994 (No. 175)

*Home Work*

- Home Work Convention, 1996 (No. 177)

The application of ratified Conventions is supervised in the ILO by the Committee of Experts on the Application of Conventions and Recommendations (CEACR), a body of independent experts from around the world, which meets annually. The information submitted in Part II of the present report consists of observations and direct requests made by the Committee. Observations are comments published in the CEACR's annual report – produced in English, French and Spanish – which are submitted to the International Labour Conference. Direct requests (produced in English and French – and in the case of Spanish-speaking countries, also in Spanish) are not published in book form, but are made public. At a later date, they are published on the ILO's database of supervisory activities, ILOLEX (available on-line or on CD-ROM).

In addition, Part III of the report includes additional information on the countries concerned including statistical tables, information on technical co-operation activities, and annexes (extracts of relevant comments of the CEACR) to Part II of the report.

# Part II: Indications concerning the situation of individual countries

## Canada

### Position with regard to ILO Conventions

I. Among the relevant ILO Conventions, Canada has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 87, 105, 122 and 182.

II. **Comments made by the ILO supervisory bodies**. The pending comments of the ILO Committee of Experts on matters relevant to the provision of CEDAW relate to:

Convention No. 100: In its 2001 observation, the Committee noted that the thorough reform of the job classification and evaluation system, which the Government has been working on since 1996, was now almost complete and that the new job evaluation tool, the Universal Classification Standard (UCS) 2.0 on which testing began in 1998, should gradually be extended throughout the Canadian public service as from the end of 2000. This new standard had been developed to assist public servants in more efficiently managing the wide variety of jobs performed in the interests of the public, and also to streamline a job evaluation system which dates back more than 30 years.

The Committee noted with interest that UCS 2.0 has three fundamental goals: *universality* (the Standard is capable of evaluating the full range of work characteristics within the public service of Canada); *gender neutrality* (the Standard can identify and positively value the characteristics of work done by women and men, including work that has been historically "invisible" or undervalued); and *simplicity* (the design and administration of the Standard can support a straightforward and efficient method of valuing and describing work). To meet these goals the Standard must be capable, for example, of comparing the work of care giving with the work of policy analysis, administration or ship repair. The Standard also conforms to the Canadian Human Rights Act, which stipulates that "[I]n assessing the value of work performed by employees employed in the same establishment, the criterion to be applied is the composite of the skill, effort and responsibility required in the performance of the work and the conditions under which the work is performed." The Standard comprises four factors for measuring the various requirements of a job: *responsibility* (measures responsibility in the work for people, ideas and things); *skill* (measures what employees need to know about, or to be able to do in order to perform the work assigned); *effort* (measures the mental and physical exertion required by the work); and *working conditions* (measures the physical and psychological conditions under which the work is performed and their potential effects on the health of employees). Each of the four factors is subdivided into elements to allow an evaluation of the whole range of jobs carried out in the public service. The Committee is of the view that this is a quantitative method of analysis enabling the relative value of jobs to be determined, and serves as a good example for other States.

In its 2001 direct request on the Convention, the Committee recalled that in April 1999 the Government announced a thorough review of the Canadian Human Rights Act and that a review panel had been set up to consider how human rights protection

in Canada might be improved at the dawn of the twenty-first century. However, in view of the large number of pay equity claims under way, section 11 of the Act had been expressly excluded from the review. This section deals with discriminatory practice in respect of wages. The Committee accordingly noted with interest that the Ministry of Justice announced that section 11 of the Human Rights Act would also be reviewed, as would the 1986 Equal Wages Guidelines, with a view to ensuring clarity in the way pay equity is implemented in a modern world, and pointed out that section 11 had been adopted more than 20 years previously, since then understanding of pay equity had evolved a great deal. One of the weaknesses of section 11 is that the system rests largely on the filing of complaints. The Committee requested the Government would keep it informed of the conclusions reached by the review panel, particularly concerning section 11 of the Human Rights Act, and by the review panel on the Equal Wage Guidelines of 1986, together with information on the action taken.

The Committee also noted that the statistics supplied by the Government show a continued trend towards a narrowing of the wage differential between men and women. In December 1986 the average wage of women was equivalent to 75 per cent of men's earnings, in December 1997 it was 80.5 per cent, and in May 2000, 84.2 per cent. In this connection, it should be pointed out that the wage gap between men and women is considerably narrower in respect of young people joining the labour market. For example, an examination of the wages of people recruited in 1999-2000 shows that women earned 94.1 per cent of what their male colleagues earned, which is more encouraging. According to the Government, the narrowing of the wage differential is partly due to the increase in the number of women employed in the public service and in the private sector, the drop in the percentage of men in blue-collar jobs and the increase in the level of wages in jobs mostly held by women. The Committee noted that, despite this undeniable progress, the statistics provided by the Government show that the wage differential between men and women for work of equal value tends to persist in both the public sector and the private sector.

The Committee also commented on the application of the Convention in a number of provinces (see full text of direct request).

Convention No. 111: In its 2000 direct request, the Committee noted that the Canadian Human Rights Commission (CHRC) had undertaken the first review of the application of the new Employment Equity Act, which came into force on 24 October 1996. The purpose of the Act is to achieve an equitable representation in workplaces of women, aboriginal peoples, persons with disabilities and members of visible minorities. To this end, employers have to correct disadvantages in the workplace experienced by the designated groups in accordance with the principle that employment equity means more than treating people in the same way, but also requires special measures and the accommodation of differences. Between November 1997 and September 1999, the CHRC undertook 138 audits (28 public sector organizations and 110 private sector employers), which revealed that only four employers were deemed to be in conformity with the 12 statutory requirements. The CHRC therefore negotiated undertakings with most of the audited employers designed to achieve observance of the Act and was only obliged to issue directions to one employer who refused to cooperate, which moreover resulted in the resolution of the problem without having recourse to a tribunal.

The Committee also noted that the Employment Equity Act, while emphasizing the responsibility of employers for the achievement of employment equity, provides that employers must consult employee representatives and invite them to provide their views concerning the implementation of employment equity. The Committee noted, on the one hand, that many of the measures described by employers in their annual report are not "consultations" within the meaning of the Act and, on the other hand, that the CHRC had indicated that several employers have reported that: (a) the lack of support from staff for equity initiatives has harmed their efforts to achieve a more representative staff; and (b) the comments made by their employees show that they still do not understand the purpose of employment equity and sometimes distrust the implementation of employment equity programmes. The Committee was of the opinion that the success of an employment equity plan depends largely on the support of employees for employment equity and requested information on the measures which had been taken or are envisaged to encourage employers to hold real "consultations" with employee representatives throughout the process of preparing and implementing their equity plan.

On the issue of valuation of unpaid work in the Canadian, the Committee noted that the statistical surveys carried out for many years by Statistics Canada show that the policies implemented by employers should take into consideration the following three points: (a) better recognition for the actual participation of men in family responsibilities; (b) recognition that family responsibilities are not confined to caring for children; and (c) taking into consideration the close relationship which exists between unpaid work and the assumption of family responsibilities with regard to a part of the unemployed population (this would make it possible, for example, to take into account the fact that, if certain persons have resigned from their jobs and others are not diligent in seeking employment, this is because they must also assume family responsibilities). In view of the close relationship between the promotion of equality of opportunity and treatment in employment and occupation and the conclusions of Statistics Canada, the Committee asked the Government to indicate the extent to which it is able to draw the attention of the social partners to the suggestions of Statistics Canada, and also whether these suggestions have been taken into account at the level of the federal administration.

*A report of the Government concerning Convention No. 111 has been received and will be examined by the Committee of Experts at its November-December 2002 session.*

Convention No. 87: In its 2000 observation on the Convention, the Committee noted that workers in agriculture and horticulture in the provinces of Alberta, Ontario and New Brunswick are excluded from the coverage of labour relations legislation and thereby deprived of the protection envisaged therein with regard to the right to organize and collective bargaining. Several other categories of workers (domestic workers, architects, dentists, land surveyors, lawyers and doctors) are excluded from labour relations legislation as well. The Committee emphasized that all workers, without distinction whatsoever, with the sole possible exception of the armed forces and the police, must be able to organize freely and benefit from the necessary protection to ensure observance of the Convention. Accordingly, it requested the government of these provinces to amend the legislation question to ensure full conformity with the Convention.

The Committee also requested the governments of Prince Edward Island, Nova Scotia and Ontario to repeal legislation establishing a trade union monopoly, which it considers in violation of the Convention. In addition, the Committee of Experts addresses a number of other matters relating to the jurisdictions of Alberta, British Colombia, Manitoba, and Ontario (for details see full text of observation).

Convention No. 122: In its 2001direct request, the Committee noted unemployment dropped from 11.5 per cent in September 1993 to 6.6 per cent in June 2000. Private sector full-time employment grew by 3.1 per cent and part-time employment grew by 1.9 per cent between April 1999 and July 2000. General unemployment decreased from 8.3 per cent in 1998 to 6.6 per cent in June 2000. Youth unemployment dropped from 15.7 per cent in 1998 to 12.9 per cent in April 2000. The Government's strategies for promoting employment included: enhancing access to knowledge and skills; supporting innovation and high-tech development; reducing taxes for individuals and corporations; reforming employment insurance incentives; increasing youth employment; and facilitating the financing for small and medium enterprises and exports.

The Committee noted the detailed information provided on programmes to tackle youth unemployment in Canada. The Government provides assistance to approximately 430,000 students per year, has established a youth information phone line and web site, and sponsors many youth information fairs. Youth employment rose by 4 per cent in 1999 and 3.8 per cent to mid-2000. However, black and young indigenous people still have very high unemployment rates of over 20 per cent. The Committee requested information on progress made in promoting employment among youth, particularly youth at greatest risk of unemployment.

## Congo

**Position with regard to ILO Conventions**

I. Among the relevant Conventions, Congo has ratified Conventions Nos. 100 and 111 in 1999; the office is currently awaiting detailed first reports for these Conventions. Congo has also ratified Convention Nos. 29, 87, 98, 105 and 138.

II. **Comments made by the ILO supervisory bodies**. There are presently no comments of the ILO Committee of Experts relevant to the provisions of CEDAW.

## El Salvador

**Position with regard to ILO Conventions**

I. Among the relevant ILO Conventions, El Salvador has ratified Conventions Nos. 100 (in 2000), 111 and 156 (in 2000). It has also ratified Conventions No. 29, 105, 138, 182, 122, and 142.

II. **Comments made by the ILO supervisory bodies**. The pending comments of the ILO Committee of Experts on matters relevant to the provision of CEDAW relate to:

Convention No. 111: In its 2001 observation the Committee noted with interest that section 246 of Legislative Decree No. 1030, of 26 April 1997, issuing regulations under the Penal Code, and amended by Legislative Decree No. 703, of 9 September

1999, sets out protection for grounds of discrimination which go beyond those provided for in the Convention, namely: pregnancy, civil status, social or physical condition, membership or not of trade unions, and family relations with other workers in the enterprise. It establishes penal sanctions for those who commit serious discrimination at work and do not correct the situation in accordance with administrative requirements or sanctions. The Committee requested the Government to provide information on the application in practice of this provision and on whether any penalties have been imposed in practice.

The Committee also noted with interest the annual reports on the action taken to comply with the National Policy on Women for 1997, 1998 and 1999 produced by the Salvadorian Institute for the Development of Women (ISDEMU). The Committee appreciated the institutional efforts made to implement affirmative action measures for women and the progress achieved, fundamentally in 1998. It noted the shortcomings reported, including the limited resources and the failure to unify knowledge on gender issues, as well as the recommendations made by the ISDEMU to adapt established measures to the strategic objectives. The Committee also noted the ISDEMU's new plan for the period 2000-04. The Committee requested the Government to indicate the State's budgetary allocation for the implementation of the National Plan for Women for the period 2000-04, and in particular for section No. 4 (Women and Work), and requested it to continue providing information on the action taken in practice to give effect to the Plan in relation to the harmonization of the legal framework with ratified international Conventions and the promotion of the access and retention of women in vocational training programmes to facilitate their integration into the labour market in a context of equality of opportunity. It noted that the Government has not provided information on the measures that it has taken in practice or envisages to guarantee equality of opportunity and treatment in access to employment and vocational training, and in the conditions of work of indigenous and tribal peoples, both in the public and private sectors. The Committee reiterated its request to provide such information disaggregated by sex.

The Committee also requested the Government to provide detailed information on the situation and working conditions of women employed in export processing zones, including statistics and summaries of the reports of the labour inspection services, so that it could assess the manner in which the Convention is applied.

The Committee also noted the Government's statement that neither the General Directorate of Labour Inspection nor the General Labour Directorate have on their files claims by workers or cases of mediation concerning the application of the principles set out in the Convention. The Committee recalled that failure to make use of recourse procedures under the terms of anti-discrimination legislation may be a result of lack of knowledge of rights or of a misunderstanding by workers or labour inspectors of the legal provisions prohibiting discrimination. The Committee requested the Government to provide information on the measures taken or envisaged to undertake appropriate information activities on the established rights relating to the principle of equality of opportunity and treatment in employment and occupation and to ensure that relevant claims are made and effectively resolved, particularly in the case of women domestic workers and agricultural workers.

Convention No. 122: In its 2001 observation, the Committee noted the statistical data which shows a decrease in unemployment between 1995 and 2000. The

unemployment rate was 6.6 per cent (in 2000), a percentage point lower than the average registered over the period 1994-99 (7.6 per cent). Nevertheless, the problem of rural unemployment appeared to be greater than urban unemployment, thereby reflecting, according to ECLAC, internal disparities in terms of poverty, income and opportunities. The Committee hoped that the Government's next report will include the updated information required by the report form on the situation, level and trends of employment, unemployment and, in particular, underemployment. In this respect, the Committee requested that the Government provide information on the manner in which unemployment and underemployment affect women, young persons and rural workers (and particularly on the employment impact of the alliance's labour plan).

The Government referred in its report to the adoption of the Act respecting equality of opportunity for persons with disabilities and the legislative initiative for the adoption of a new apprenticeship law. The Committee requested that the Government provide information in its next report on the impact of these initiatives in obtaining lasting employment for persons with disabilities and young persons wishing to enter the labour market.

The Government also reported that the Act respecting industrial free zones and commercialization entered into force and is intended to broaden and diversify production and export markets. The Committee requested that the Government provide information in its next report on the manner in which the above export processing activities and zones have contributed to the creation of productive and lasting employment.

## Kenya

**Position with regard to ILO Conventions**

I. Among the relevant ILO Conventions, Kenya has ratified Conventions Nos. 100 and 111 (both in 2001). It has also ratified Conventions Nos. 29, 45, 89, 98, 105, 138 and 182.

II. **Comments made by the ILO supervisory bodies**. The pending comments of the ILO Committee of Experts on matters relevant to the provision of CEDAW relate to:

Convention No. 98: In its 2001 observation, the Committee noted that the legal framework in respect to the Convention is being reviewed with the task force appointed by the Government to review labour laws in May 2001, which is expected to complete its work by August 2002. The Committee urged the Government to ensure that the revised legislation is in full conformity with *Articles 4 and 6 of the Convention* and to ensure that public employees, with the sole exception of those engaged in the administration of the State, benefit from the guarantees laid down in the Convention, in particular the right to negotiate collectively their terms and conditions of employment.

Convention No. 138: In its 200 observation, the Committee noted that the Employment Act (chapter 226) and the Employment (Children) Rules of 1977 would be revised in the framework of a general revision of labour legislation which was to start in the near future. The Committee also noted that a Bill on children has been submitted to Parliament and was currently under examination. It requested the

Government to supply information on the progress made in relation to draft general revision of the labour legislation as well as information on the work of Parliament in relation to the Bill on children. The Committee further requested the Government to raise the minimum age for employment under the Employment Act from 15 to 16, recalling that the Government had specified the minimum age of 16 when ratifying the Convention. The Committee also noted preparations by the Ministry of Education for a draft bill to make primary education compulsory.

Convention No. 142: In a 1999 direct request, the Committee noted with interest that there is a deliberate policy to promote participation of women in vocational guidance and training in the economy, as highlighted in the National Development Plan 1997-2001 which encourages women and youth involvement in small, medium-scale and informal sector activities. The Government was asked to provide information on the achievements obtained in the framework of the National Development Plan in order to encourage all persons, on an equal basis and without any discrimination whatsoever, to develop and use their capabilities for work in their own best interests and in accordance with their own aspirations, account being taken of the needs of society (Article 1, paragraph 5).

See also Part III (additional information).

## Luxembourg

**Position with regard to ILO Conventions**

I. Among the relevant ILO Conventions, Luxembourg has ratified Convention No. 100 and, in March 2001, Convention No. 111. It has also ratified Conventions Nos. 3, 29, 87, 98, 103, 105, 138, and 183.

II. **Comments made by the ILO supervisory bodies**. The pending comments of the ILO Committee of Experts on matters relevant to the provision of CEDAW relate to:

Convention No. 100: In its 2001 direct request, the Committee noted the Government's indication that wage differences between men and women do not originate in unequal direct remuneration for the same work but rather in career breaks for family reasons and in the lack of promotion and career progress. The Government indicated that the equality representatives, established under the Act of 7 July 1998 in staff committees of public and private sector companies with over 15 workers, have an important function in raising awareness both in employers and in employees with regard to the sharing of family responsibilities by fathers. The Committee noted, however, that the Government had replied to its direct request regarding application of the Act of 7 July 1998 by stating that it poses no major problems. In noting the abovementioned observations by the Government and considering that, within the meaning of section 11bis(2) of the amended Act of 18 May 1979, introduced by the Act of 7 July 1998, the function of equality representatives is to defend equality of treatment between female and male workers in the establishment in regard to access to employment, training and professional advancement, remuneration and working conditions, the Committee hoped that the next report would supply information on the activities carried out by the representatives in the performance of this function. The Committee also hoped that the Government would supply information on individual or collective

representations regarding equality of treatment between men and women which equality representatives may submit to employers under section 11bis(1)(d).

The Committee also drew the Government's attention to the fact that, according to the initial report and second periodical report of 1996 on measures taken to give effect to the Convention on the elimination of all forms of discrimination against women, the criteria for evaluation and classification contained in several collective agreements continue, nevertheless, to favour male workers. In this respect, the Committee asked the Government to keep it informed of any progress made since 1996 with regard to promoting application of the Convention in collective bargaining.

Convention No. 87: In its 2001 direct request, the Committee recalled the need to amend section 6(1) of the Act of 6 May 1974 in order to allow foreign workers who are not nationals of Luxembourg or other States of the European Union to serve on joint enterprise committees, at least after a reasonable period of residence in the host country. In this regard, the Committee noted the Government's statement to the effect that it was in the process of preparing a revision of all legislation on staff representative structures, including joint enterprise committees. In this context, the advisability of allowing foreign workers who are not nationals of a European Union State to participate in joint enterprise committees after a certain perioc of residence in Luxembourg would also be analysed. The Committee noted this information and requested the Government to keep it informed in its next report of the measures actually taken to bring the provisions of section 6(1) of the Act of 6 May 1974 into greater conformity with *Article 3* of the Convention.

## Norway

**Position with regard to ILO Conventions**

I. Among the relevant ILO Conventions, Norway has ratified Conventions Nos. 100, 111, and 156. It has also ratified Conventions Nos. 29, 87, 98, 105, 138, and 182.

II. **Comments made by the ILO supervisory bodies**. The pending comments of the ILO Committee of Experts on matters relevant to the provision of CEDAW relate to:

Convention No. 100: In its 2000 observation, the Committee noted statistical data indicating that the wage gap between men and women has remained stable from 1996 to 1998. The Government indicated that women's relative pay levels in all categories for which figures were available improved in the 1990s, with the wage gap narrowing most among civil servants and employees in retail trade. The Government also stated that a weighted average of all groups shows that women's average annual wage was 85 per cent of men's corresponding annual wage in 1990, increasing to 86 per cent in 1998. The Government highlighted that the principle of the Convention needs to be implemented through a variety of methods, given that pay disparities between women and men take different forms. The Government distinguished between three types of gender-based salary discrimination: job discrimination (where women and men do not have equal access to jobs and promotion); direct discrimination (women receive lower pay than men in the same job and with the same qualifications); and evaluation discrimination (jobs where

women predominate are less well paid than comparable jobs where men predominate).

The Government pointed out that enterprises in the private and municipal sectors are free to decide whether or not to initiate systematic pay equality efforts, whereas such activity is compulsory in the Government sector. As a consequence, discussions are under way to determine whether an order with the force of law could promote systematic pay equality efforts at the local level. The Government also indicated that an agreement on a new activities programme for gender equality was concluded by the Federation of Norwegian Business and Industry (NHO), the Norwegian Federation of Trade Unions (LO) and the Confederation of Vocational Unions (YS) at the pay settlement in 2000. The agreement places particular emphasis on pay conditions and the development of pay systems based on criteria taking the gender dimension into account. The Committee noted this development with interest and hoped that the social partners would reach agreement to promote improved application of the Convention.

The Committee noted that the Equal Status Act was still undergoing revision in collaboration with the social partners. Section 5 of the Act, which limits the application of the equal pay principle to work in the same enterprise was under review and consideration was being given in this context to expanding the scope of comparison between jobs. The Government indicated that removal of the limitation could be useful in implementing the principle of the Convention, particularly in the light of the persistence of occupational segregation in Norway's labour market. The Government acknowledged in its report that the main reason for existing pay disparities is that men and women hold different positions, a factor which the Government attributes to job discrimination as well as to women's and men's occupational choices. The Committee also noted that, according to the Equal Status Ombudsman, both the Ombudsman and the Equal Status Appeals Board apply section 5 in such a manner that there is nothing to prevent comparison of jobs in two different trades where working conditions and pay are regulated by different collective pay agreements. Therefore, the Ombudsman maintains that the Act is interpreted and enforced in accordance with Norway's international obligations and in agreement with the Job Evaluation Committee. The Committee asked the Government to consider expanding the scope of section 5 of the Equal Status Act to permit comparisons between jobs in different enterprises and asked the Government to keep it informed of developments in this respect and to supply a copy of the Equal Status Act, once amendments are adopted.

Convention No. 111: In its 2000 observation, the Committee noted with interest the wide range of measures recently taken by the Government to promote equality of opportunity on grounds of race and national extraction in access to employment and occupation including the Governmental Plan of Action to Combat Racism and Discrimination (1998-2001), the establishment of a Centre to Combat Ethnic Discrimination, the creation of a committee to review legislation on racial discrimination, and the database for recognition of foreign workers' academic qualifications. It also noted the Government's public apology for past injustices to the Roma people (travellers) in February 1998.

In its 2001 direct request, the Committee noted that, on 30 April 1998, section 55A of the Worker Protection and Working Environment Act No. 4/1977 was amended to include a provision prohibiting discrimination in recruitment practices on the basis

of race, colour, national or ethnic origin, sexual orientation or cohabitation. It requested the Government to provide information in its next report on the practical application of section 55A.

The Committee also recalled its previous comments on section 2 of Act No. 4/1977 whereby certain sectors - including workers employed in shipping, hunting and fishing, including the processing of catch on board ship, and military aviation - are exempted from the scope of the Act and thereby from any protection against discrimination. It also recalled that coverage of the Act does not extend to homeworkers. The Committee requests the Government to provide information on any measures taken or contemplated to secure protection against discrimination in employment to workers in the sectors of activity not covered by Act No. 4/1977.

The Committee noted the information provided with the Government's report including the White Paper on Immigration and a Multicultural Norway (St meld No. 17 (1996-97)) and the Governmental Plan of Action to Combat Racism and Discrimination (1998-2001). It noted with interest that the plan of action is aimed at reducing structural barriers to employment and identifies seven priority areas including, inter alia, measures to ensure equal opportunities for employment, and promotion and protection against unfair dismissal in the labour market. Noting also that the unemployment rate for immigrants was 6.3 per cent compared with 2.2 per cent for the total population, with immigrants from Africa having the highest rate of unemployment (12.6 per cent in May 1999) (CERD/C/363/Add.3 of April 2000), the Committee noted the measures taken to increase the recruitment of persons from an immigrant background in public sector employment (1998-2001). In this respect, it also noted the information contained in the "Presentation by Norway at the European Conference against Racism", Strasbourg, 11-13 October 2000 and that the Ministry of Education, Research and Church Affairs has established a national database for the recognition of foreign higher academic qualifications. The Committee asked the Government to provide information on the implementation of measures taken to combat direct and indirect discrimination and the results obtained, and to provide statistical data on the Norwegian labour market, disaggregated by ethnicity and sex.

*A report of the Government concerning Convention No. 111 has been received and will be examined by the Committee of Experts at its November-December 2002 session.*

Convention No. 156: In its 2000 observation, the Committee noted the various measures taken by the Government to ensure that workers with family responsibilities have equal opportunity and treatment. It noted that the Cash Benefit Scheme for Parents with Small Children Act entered into force on 1 August 1998 and is applicable to all parents with children between the ages of one to three, irrespective of financial means, except when the child attends a day-care centre which receives a grant from the Government. Families with children in part-time day care receive a partial cash benefit. In this regard it noted the amendments to sections 31, 32 and 33A of the 1977 Worker Protection and Working Environment Act (WEA) extending the right of leave of absence for childcare including where parental responsibility is allocated under sections 36 and 37 of the Children's Act as well as for children with special needs. The Committee also noted with interest that the number of fathers making use of their rights to enjoy parental benefits has increased from 1 per cent in 1993 when it was introduced, to the current figure of

nearly 80 per cent, and asked the Government to continue to supply information on these and other measures aimed at increasing the role of the father in caring for small children, a recommendation of the Working Party for the Role of the Male referred to in earlier comments.

Convention No. 122: In its 2001 direct request the Committee noted information according to which the economy had slowed down in 1999, after a prolonged boom, but has started to pick up again. The labour force growth rate has slowed down, from an average of 2 per cent for 1995-1997 to about 0.6 per cent from 1998 to 1999, and was negative for men. Growth in jobs occurred mainly in the health and social services sectors. Growth in unemployment was 6.9 per cent from 1999 to 2000, and mainly affected men and older workers due to a slump in manufacturing. Unemployment decreased for workers over 60, due to increased use of early retirement and disability pensions. There was a slight increase in the number of partially employed. The Government had indicated that unemployment increased 12.4 per cent for non-native speakers, due to an increase in the number of refugees admitted. The Government provided "individual action plans" for immigrants, which include language and vocational training and it works closely with the Federation of Norwegian Business and Industry, the Norwegian Federation of Trade Unions, the Federation of Norwegian Commercial and Services Enterprises. Labour market programmes included wage subsidies, employment in public enterprises, job qualification programs, and temporary placement as a substitute for someone on leave. Special programs for people with disabilities include schooling, in-company rehabilitation, wage subsidies, and employment subsidies for public enterprises. Recruitment services are Internet-based.

Convention No. 138: In its 2001 direct request, the Committee noted with interest that regulations on the employment of children and young persons (No. 551 of 30 April 1998) had been issued, and that a number of amendments have been made to Chapter IX of the Working Environment Act (No. 4 of 1977). The Committee requested further information a number of points (see full text of direct request).

# Part III: Additional information

## Kenya

Participants from Kenya attended a sub-regional training seminar for judges on discrimination issues organized by the ILO in May 2001 in Kampala, Uganda. This seminar addressed issues such as sexual harassment, equal pay for work of equal value and indirect forms of sex discrimination.

A tripartite ILO seminar to promote the ratification of Conventions Nos. 100 and 111 was held for Eastern Africa in 2000. Kenya participated in the seminar in which a thorough review of its laws was undertaken in order to bring the law into conformity with the Conventions. Future work is encouraged in this area. As stated above, Kenya has ratified Conventions Nos. 100 and 111 in 2001.

A national workshop - supported by the ILO Project to Promote ILO Policy on Indigenous and tribal Peoples (DANIDA) and hosted by CEMIRIDE (Centre for Minority Rights Development) – took place from 28th to 30th November 2001. The primary aim of this workshop was to facilitate the coordination of an effective strategy for the collection and elaboration of a position paper for pastoralists and hunter-gatherers in Kenya to be presented to the Constitutional Review Commission, and for the effective participation of these peoples in this process. The ILO Convention No. 169 was also presented during the workshop. Under Article 3 of the Convention indigenous and tribal peoples shall enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination. The same article provides that the provisions of the Convention shall be applied without discrimination to male and female members of these peoples.

## Switzerland

**Position with regard to ILO Conventions**

I. Among the relevant ILO Conventions, Switzerland has ratified Conventions Nos. 100 and 111. It has also ratified Convention Nos. 29, 45, 87, 98, 105, 138, 142, and 182.

II. **Comments made by the ILO supervisory bodies.** The pending comments of the ILO Committee of Experts on matters relevant to the provision of CEDAW relate to:

Convention No. 100: In its 2001 direct request, the Committee of Experts noted that the wage gap continued to be reduced slowly. In 1998, the difference between men's and women's wages was 22 per cent in the private sector (23 per cent in 1996), compared with 9 per cent in the public sector (11 per cent in 1996).

The Committee noted with interest that the Federal Administration adopted on 1 March 1999 a "Swiss Action Plan for Equality between Women and Men" under which the action to be taken to promote equal remuneration for men and women workers for work of equal value would include: the creation of machinery to ensure that no discrimination occurs when measuring work performance before introducing remuneration based on merit; the introduction of a control mechanism at the federal level to ensure that subcontractors under public contracts respect the principle of equal remuneration for men and women for work of equal value; and calling upon the

Federal Administration to examine whether its current wage system causes direct or indirect structural discrimination and, if so, to take action to remedy it.

Pointing out that sections 14 and 15 of the Federal Act on Equality between Men and Women allow for the possibility of providing support to private and public organizations for the adoption of promotional measures, the Committee noted that several of the projects that were granted funding in 1998 and 1999 promote the application of the Convention, including one project consisting of the re-evaluation and reclassification of non-skilled work in the watch-making industry which resulted in an increase in the wages of women workers in Geneva.

The Committee noted that the Federal Tribunal had dealt with 18 cases relating to equal remuneration and asked for copies of the decisions upon their issuance. The Committee noted the case *M.B. v. the Canton of St. Gallen* of 17 May 2000, in which the Federal Tribunal found that, for the purpose of calculating the wage of a teacher, in view of labour market mechanisms, comparison may be made with wages in the private sector. The Committee noted the comments made by the Swiss Federation of Trade Unions to the effect that the decision in this case was contrary to the achievement of the principle of equal remuneration for men and women workers for work of equal value; it asked the Government to indicate the measures taken or contemplated to offset the negative impact that the use of the labour market mechanism may have on the achievement of equal remuneration between men and women in the teaching profession.

The Committee noted with interest that section 8(1) of the Public Contracts Act of 16 December 1994 states that contracts can only be awarded to subcontractors who guarantee equal remuneration for men and women workers for work of equal value. Furthermore, the adjudicator can control compliance with the principle, or have it controlled (section 8(2)). The Committee noted with interest that the burden of proof was placed on the bidder. It also noted that under section 6 of the Public Contracts Order of 11 December 1995, the role of supervision may be transferred to the federal, cantonal or communal bureaux on equality. The Committee noted that this supervision had still not been implemented and that the Federal Bureau on Equality between Men and Women had therefore called for the development of an econometric supervisory instrument, which was due to be completed at the beginning of year 2001. It asked for a copy of this instrument once it had been finalized.

Convention No. 111: The Committee noted in its 2000 direct request the Committee noted the Government's indications concerning the evaluation of the effectiveness of the Equality Act, according to which it appeared that the limited number of appeals lodged under the Act bore witness to the inadequacy of the protection that it provides, particularly against dismissal. The Committee also noted the disagreement with this analysis expressed by the Confederation of Swiss Employers and hoped that it would be possible to identify the strengths and shortcomings of the Act through the continuation of research and analysis by the expert bodies created by the Government, based on statistical data, of the progress achieved in attaining equality between men and women, as well as through the complaints which are made under the Act.

*The Committee of Experts examined the Government's latest reports on the application of Conventions Nos. 100 and 111 at its November-December 2002 session.*